

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

No. CV 16-00423 RB/LAM

No. CR 13-02725 RB

JOHN ERIC SAPIEN,

Defendant/Movant.

**ORDER GRANTING MOTION FOR VOLUNTARY DISMISSAL OF PETITIONER'S
MOTION TO CORRECT SENTENCE PURSUANT TO 28 U.S.C. § 2255
AND DISMISSING WITHOUT PREJUDICE**

THIS MATTER is before the Court under Fed.R.Civ.P. 41(a)(2) on the Motion for Voluntary Dismissal of Petitioner's Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 filed by Defendant/Movant, John Eric Sapien, on March 7, 2017. (CV Doc. 29; CR Doc. 60). Sapien seeks to dismiss this § 2255 Motion without prejudice in light of the U.S. Supreme Court's ruling in *Beckles v. United States*, ___U.S. ___, 2017 WL 855781 (2017). The United States of America does not oppose the Motion. The Court finds the Motion for Voluntary Dismissal should be granted.

IT IS ORDERED:

(1) the Motion for Voluntary Dismissal of Petitioner's Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 filed by Defendant/Movant, John Eric Sapien, on March 7, 2017 (CV Doc. 29; CR Doc. 60) is **GRANTED**;

(2) the Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 (CV Doc. 1; CR Doc. 32) and the Amended Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 (CV Doc. 16; CR Doc. 47) are **DISMISSED WITHOUT PREJUDICE**; and

(3) civil case No. CV 16-00423 RB/GBW is **CLOSED**.


UNITED STATES DISTRICT JUDGE